

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

STEVEN B. BARGER, an individual,) Case No.: 1:17-CV-4869
)
 Plaintiff,)
) STATEMENT ON THE
 vs.)
) RECORD
 FIRST DATA CORPORATION, et al,)
)
 Defendants.)

DATE: June 7, 2018

TIME: 9:00 a.m.

PLACE: Regus 1299 Farnam Street, Suite 300, Omaha,
Nebraska

Job No. 28252

STEVEN B. BARGER -against- FIRST DATA
Data First on June 07, 2018

Job 28252
Pages 2..5

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|--------|---|--------|--|
| 1 | (402) 476-1153 | 1 | I N D E X |
| 2 | A P P E A R A N C E S | 2 | |
| 3 | APPEARING ON BEHALF OF PLAINTIFF: | 3 | |
| 4 | Mr. Shawn E. Shearer | 4 | EXHIBITS: Marked |
| 5 | Attorney at Law | 5 | |
| 6 | THE LAW OFFICE OF SHAWN SHEARER, P.C. | 6 | |
| 7 | 3839 McKinney Avenue, Suite 155-254 | 7 | |
| 8 | Dallas, Texas 75204 | 8 | |
| 9 | (972)803-4499 | 9 | |
| 10 | shawn@shearerlaw.pro | 10 | |
| 11 | APPEARING ON BEHALF OF DEFENDANTS: | 11 | |
| 12 | Mr. Gary B. Eidelman | 12 | |
| 13 | Attorney at Law | 13 | |
| 14 | SAUL EWING ARNSTEIN & LEHR LLP | 14 | |
| 15 | Lockwood Place | 15 | |
| 16 | 500 East Pratt Street | 16 | |
| 17 | Baltimore, Maryland 21202-3133 | 17 | |
| 18 | (410)332-8975 | 18 | |
| 19 | gary.eidelman@saul.com | 19 | |
| 20 | ALSO PRESENT: Anna Grady, Videographer and Brenda | 20 | |
| 21 | Barger | 21 | |
| 22 | | 22 | |
| 23 | | 23 | |
| 24 | | 24 | |
| 25 | | 25 | |
| Page 4 | | Page 5 | |
| 1 | (Whereupon, at 9:30 a.m., the following proceedings | 1 | Brenda Barger, my paralegal. This was to be a |
| 2 | were had:) | 2 | Rule 30(b)(6) deposition of First Data |
| 3 | | 3 | corporation. In addition, there was an |
| 4 | (Exhibit No. 50, marked for identification.) | 4 | agreement with counsel Gary idle man that the |
| 5 | | 5 | testimony of Jennifer Voycheske as a 30(b)(6) |
| 6 | VIDEOGRAPHER: Good morning. We | 6 | witness may also be designated as a fact witness |
| 7 | are on the record at 9:30 a.m. on Thursday, | 7 | under Rule 30. |
| 8 | June 7th, 2018, for the videotaped deposition of | 8 | It's now 9:32 a.m. on May -- on June 7th and |
| 9 | First Data Corporation, 30(b)(6). | 9 | no one has appeared from First Data. No |
| 10 | We are taking this deposition at the offices | 10 | witnesses from First Data. Mr. Eidelman is not |
| 11 | of Regus in Omaha, Nebraska, in the action | 11 | here. Ms. Gillian Cooper is not here. None of |
| 12 | entitled Steven B. Barger versus First Data | 12 | the counsel for First Data are present. |
| 13 | Corporation, et al. | 13 | We'll go off the record here in a moment for |
| 14 | This is taken before Christine Salerno. | 14 | a -- 15 minutes to give the deponent, or his |
| 15 | This is Case No. 17, CV, 4869. My name is | 15 | counsel, a bit more time; however, that is not |
| 16 | Anna Grady. I'm a certified legal video | 16 | necessary. I e-mailed Mr. Eidelman this |
| 17 | specialist from EcoScribe solutions. | 17 | morning, about 20 minutes ago, to indicate that |
| 18 | This is Disc No. 1. Would counsel please | 18 | we were here in Omaha at the noticed place for |
| 19 | identify themselves and state whom they | 19 | the deposition. Mr. Eidelman e-mail returned an |
| 20 | represent. | 20 | out of office. I telephoned Mr. Eidelman, he |
| 21 | MR. SHEARER: This is Shawn | 21 | indicated he was not going to be here and made |
| 22 | Shearer, plaintiff's counsel for Mr. Steven B. | 22 | some claims about indicating that he was not -- |
| 23 | Barger. And with me is Brenda Barger, my | 23 | that he had indicated he was not going to |
| 24 | paralegal. We'll proceed. | 24 | attend. Those communications are not in my |
| 25 | My name is Shawn Barger. I'm joined by | 25 | recollection and are not in my records. |

STEVEN B. BARGER -against- FIRST DATA
Data First on June 07, 2018

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1 I'm going to enter into the record Exhibit
2 No. 50 in this case which contains an e-mail
3 from me to miss -- Mr. Eidelman, Ms. Cooper and
4 associate with the same firm, Ms. Lindsay
5 Kennedy, with a CC to David Zeitlin, local
6 counsel on this case in New York, dated
7 May 22nd, 2018, at 2:51. The e-mail states:
8 "Please see the attached letter and notice of
9 30(b)(6) deposition for Omaha."
10 The letter is also included. The letter is
11 approximately two pages long and it specifies
12 the dates for these depositions to occur under
13 Rule 30(b)(6) in Omaha today at 9 a.m. at this
14 location.
15 Also attached to the letter is the notice of
16 Rule 30(b)(6) deposition and I'm going to read
17 that into the record and this is in Barger V
18 First Data, Case No. 1:17-CV-4869, pending in
19 the Eastern District of New York, captioned
20 Steven B. Barger plaintiff V. First Data
21 Corporation, et al, defendants, and it states:
22 "Notice of Rule 30(b)(6) deposition and
23 provides, Please take notice that pursuant to
24 Rules 30(b)(6) of the Federal Rules of Civil
25 Procedure, the plaintiff in the above captioned

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1 And I would like to enter that into the
2 record and we'll take a -- go off the record for
3 15 minutes, we'll come back to see if they show.
4 Off the record.
5 VIDEOGRAPHER: Please stand by as
6 we go off the record. The time is approximately
7 9:37 a.m.
8 (Recess was taken.)
9 VIDEOGRAPHER: We are back on the
10 record. The time is approximately 9:54 a.m.
11 MR. SHEARER: Shawn Shearer again,
12 representing plaintiff Barger in Barger V. First
13 Data. The citation was given before.
14 It is now 9:54 a.m. No witnesses are here
15 for the defendant First Data. Counsel for First
16 Data is not present at the noticed address.
17 At this time, we're going to suspend the
18 deposition and proceed accordingly with defense
19 counsel. That is it, off the record.
20 VIDEOGRAPHER: Please stand by as
21 we go off the record. This is the end of disc
22 one, the time is approximately 9:54 a.m.
23 (Concluded at 9:54 a.m.)
24
25

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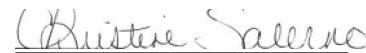
1 case will take the oral depositions under oath
2 of First Data corporation through one or more
3 officers, directors, agents or other
4 representatives who shall be designated to
5 testify on First Data's behalf regarding all
6 information known or reasonably available to
7 First Data with respect to the subject matter
8 identified in Exhibit A. Plaintiff requests
9 that First Data provide notice of at least five
10 business dates, before the deposition, of the
11 names and employment positions of the
12 individuals designated to testify on First
13 Data's behalf. This deposition shall commence
14 at 9 a.m. on June 7, 2018, to continue beginning
15 at 9 a.m. on June 8, 2018, if needed, at Regus
16 1299 Farnam Street, Suite 300, Omaha, Nebraska,
17 68102; or such other time and location as agreed
18 by the parties, and it shall be taken before a
19 duly certified court reporter and notary public
20 or other person authorized to administer oaths.
21 The depositions will be recorded by stenographic
22 and video means. Dated May 22, 2018. The law
23 office of Shawn Shearer, PC and then my
24 signature with my telephone number and contact
25 information.

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C E R T I F I C A T E

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3 I, Christine M. Salerno, RPR, do hereby certify
4 that the within and following complete transcript
5 contains all the evidence requested to be transcribed
6 by me, from the proceedings had in or at the trial of
7 the foregoing cause in said court; and that said
8 complete transcript is a correct and complete
9 transcription of the evidence requested to be
10 transcribed from the record made at the time of said
11 proceedings or trial.

Dated this 11th day of June, 2018.



Christine M. Salerno, RPR

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF NEW YORK

3 STEVEN B. BARGER, an individual,) Case No.: 1:17-CV-4869

4 Plaintiff,)

5 vs.)

6 FIRST DATA CORPORATION, et al,)

7 Defendants.)

TELEPHONIC STATEMENT

ON THE RECORD

8
9
10
11
12 DATE: June 8, 2018

13 TIME: 9:02 a.m.

14 PLACE: Regus 1299 Farnam Street, Suite 300, Omaha,
15 Nebraska

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21
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23
24 Job No. 28253
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STEVEN B. BARGER -against- FIRST DATA
First Data on June 08, 2018

Job 28253
Pages 2..5

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|---|--|
| <p>1 APPEARANCES</p> <p>2</p> <p>3 APPEARING ON BEHALF OF PLAINTIFF:</p> <p>4 Mr. Shawn E. Shearer - VIA TELEPHONE</p> <p>5 Attorney at Law</p> <p>6 THE LAW OFFICE OF SHAWN SHEARER, P.C.</p> <p>7 3839 McKinney Avenue, Suite 155-254</p> <p>8 Dallas, Texas 75204</p> <p>9 (972)803-4499</p> <p>10 shawn@shearerlaw.pro</p> <p>11 APPEARING ON BEHALF OF DEFENDANTS:</p> <p>12 Mr. Gary B. Eidelman - NOT PRESENT</p> <p>13 Attorney at Law</p> <p>14 SAUL EWING ARNSTEIN & LEHR LLP</p> <p>15 Lockwood Place</p> <p>16 500 East Pratt Street</p> <p>17 Baltimore Maryland 21202-3133</p> <p>18 (410)332-8975</p> <p>19 gary.eidelman@saul.com</p> <p>20 (Court reporter took statement via speaker phone.)</p> <p>21 ALSO PRESENT: Brenda Barger - VIA TELEPHONE</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p>1 (Whereupon, at 9:00 a.m., the following proceedings</p> <p>2 were had:)</p> <p>3 MR. SHEARER: I am Shawn Shearer</p> <p>4 of the Law Office of Shawn Shearer, P.C.,</p> <p>5 counsel for the plaintiff, Steven Barger, in the</p> <p>6 case of Steven Barger V. First Data Corporation,</p> <p>7 et al. Case No. 1:17-CV-4869, pending in the</p> <p>8 Federal District Court for the Eastern District</p> <p>9 of New York.</p> <p>10 It is 9 a.m. on June 8, 2018. I am at the</p> <p>11 Regus offices located at 1299 Farnam Street,</p> <p>12 Suite 300, Omaha, Nebraska.</p> <p>13 This is the time and place for the second</p> <p>14 day of the Rule 30(b)(6) depositions of the</p> <p>15 defendant First Data.</p> <p>16 As like yesterday, June 7th, 2018, neither</p> <p>17 representatives of First Data, nor counsel for</p> <p>18 First Data, have appeared here at this date and</p> <p>19 time period for those depositions.</p> <p>20 The notice of Rule 30(b)(6) depositions was</p> <p>21 served on counsel for First Data on May 22,</p> <p>22 2018, and that notice is included as Exhibit 50</p> <p>23 to the transcript of June 7, 2018.</p> <p>24 Because witnesses for First Data have not</p> <p>25 appeared at the designated time and place, these</p> |
| Page 4 | Page 5 |
| <p>1 depositions are again suspended. That is it, we</p> <p>2 can go Off the record.</p> <p>3 (Discussion off the record.)</p> <p>4 Also note that my paralegal Brenda Barger is</p> <p>5 here with me.</p> <p>6 (Concluded at 9:03 a.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 I, , do hereby certify</p> <p>4 that the within and following complete transcript</p> <p>5 contains all the evidence requested to be transcribed</p> <p>6 by me, from the proceedings had in or at the trial of</p> <p>7 the foregoing cause in said court; and that said</p> <p>8 complete transcript is a correct and complete</p> <p>9 transcription of the evidence requested to be</p> <p>10 transcribed from the record made at the time of said</p> <p>11 proceedings or trial.</p> <p>12 Dated this 11th day of June, 2018.</p> <p>13</p> <p>14 <u>Hustie Salerno</u></p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |